UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,338	03/23/2004	Yusuke Ohashi	62807-177	2206

20457 7590 07/27/2006

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-3873

EXAMINER	
MARTINEZ, DAVID E	

ART UNIT	PAPER NUMBER
2181	

DATE MAILED: 07/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/806,338	OHASHI ET AL.	
	Examiner	Art Unit	
	David E. Martinez	2181	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *23 March 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-9* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-9* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

FRITZ FLEMING
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100
7/24/2006

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *3/23/04*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-9 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 1, 2, 5, 7-9 appear to be directed to an abstract idea rather than a practical application of the idea. The last step in each of the claims is directed to "judging said execution enablement/disablement for said I/O requests" does not appear to provide a useful, concrete and tangible result, therefore, non-statutory.

Due to claims 3-6 being dependent from claim 1, they suffer from the same deficiencies thus are rejected under the same rationale.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With regards to claim 1, the preamble renders the claim indefinite since it calls for a node switching method but yet the body of the claim lacks an actual node switching step thus not necessarily being a node switching method. It isn't clear if there is a node switching step in the body of the claim or if that step is supposed to be represented by a different step in the claim.

Also in claim 1, the term "said disk device in advance," in line 9 renders the claim indefinite. It isn't clear how "transmitting access-right change commands to said disk device in advance," is performed. The commands are being transmitted in advance relative to what exactly? An explanation for transmitting the commands in advance of another element would clarify this term.

Furthermore, in lines 10-14 of claim 1, it isn't clear how one piece of information can result from causing two pieces of information (I/O-enable/disable information and host identification information) corresponding to each other in a one to one correspondence manner. Wouldn't the one piece of information have to be at least two pieces of information since it is dependent from at least two pieces of information? Also in lines 11-12, the term "I/O-enable/disable information", is it referring to I/O-enable information AND I/O-disable information, both at the same time? Or is it referring to I/O-enable information or I/O-disable information, as in only one at a time? In addition in lines 16-18 refer to "said host identification information being designed..." from line 12. It isn't clear if the host identification information hasn't been created at that point or if the whole term is an intended use term.

In addition, in lines 19-21, the term "issuing, to said disk device, said I/O requests to which said host computers have added said host identification information" is indefinite since it isn't clear if the host identification information has been added into the I/O requests themselves or if they have been added/stored into the host computers.

In line 23, claim 1 calls for "changing in batch" which makes it indefinite. Is not understood if the I/O-enable/disable information is "changed in batch" in each host-computer one by one, or if it means that the I/O-enable/disable information is changed from the plurality of host computers, all at the same time (in batch),

In line 26 of claim 1, the term "simultaneously storing and holding.." also isn't clear. Does it mean to simultaneously store and hold or does it mean to when "changing in batch" from line 23 to simultaneously store and hold access-right change commands?

With further regards to the term "said disk device in advance," which is also found in claim 2 lines 4-5, claim 5 line 8 and claim 7 line 10, it renders each of those claims indefinite for the same reasons as those set forth above under the claim 1 rejection.

Independent claims 7 and 8 suffer from similar deficiencies as those found in claim 1 above thus they are rejected under the same rationale.

Claims 1-9, as shown above are rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph. The claims are generally narrative in form and replete with indefinite and functional or operational language thus failing to conform with current U.S. practice. They also appear to be a literal translation into English from a foreign document.

Due to the vagueness and a lack of clear definiteness used in the claims, the claims have not been treated on their merits. See In re Steele, 305 F.2d 859,134 USPQ 292 (CCPA 1962), and MPEP 2173.06.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David E. Martinez whose telephone number is (571) 272-4152. The examiner can normally be reached on 8:30-5:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fritz M. Fleming can be reached on 571-272-4145. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DEM

FRITZ FLEMING
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100
7/24/2006